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S/N: 09/927,719

REMARKS

Claims 29-48 are pending in the present application. In the Office Action mailed September 5, 2003, the Examiner rejected claims 29-31, 43, and 44 under 35 U.S.C. §103(a) as being unpatentable over Davies (USP 2,676,559) in view of Hall (USP 5,273,467). Applicant appreciates the indication of allowability of claims 34-42 and 45-48 and the indication of allowable subject matter of claims 32 and 33.

As stated in the response filed June 6, 2003, applicant does not necessarily disagree that the exhaust housing of Davies is pivotable in relation to the hull, however, Applicant respectfully disagrees that the exhaust housing, as shown in Davies, is mounted to the hull or that the exhaust housing is pivotally mounted thereto.

Claim 29 calls for, in part, an "exhaust housing pivotably mounted to said hull". While the exhaust housing of Davies is pivotable in relation to the hull, the claim requires that the exhaust housing be pivotally mounted to the hull. Such is not the case in Davies.

The exhaust housing of Davies is pivotally mounted to the forwardly directed bracket 131, not to the hull. In other words, it is the bracket (131) that is pivotally mounted to the hull and not the exhaust passage. Davies, referring to Fig. 3, discloses that "the passage 41 serves to conduct exhaust gases from the exhaust port 43 of the engine 1 to the upper end 39 of the driving-shaft housing 4 which, besides housing the driving-shaft, also serve as an exhaust pipe and cooling water discharge conduit for the engine." Col. 5 lns. 69-74. Davies also states that:

The upper part of the attachment member 5 is (if desired, with the aid of a rubber bush) pivoted on a horizontal bolt 130 passing through the upper end of an upwardly and forwardly directed bracket 131 united at its lower part to the front portion of an internally cylindrical bearing sleeve (132) in which is journaled a cylindrical port 133 (see Figures. 3, 14 and 15 for example) of the driving-shaft housing 4, the upper and lower ends of the said sleeve being located between circumferential shoulders 134 and 135 at the ends of the said cylindrical part of the driving-shaft housing so as to be restrained by these shoulders against endwise movement with respect to such housing." Col. 9, ln. 73 through Col. 10, ln. 13.

As shown in Fig. 3 of Davies, exhaust passage (41) is secured to bracket (131) which is secured to attachment member (5) via pivot bolt (130). As such, it is not the exhaust housing that is pivotally mounted to the hull, rather it is the bracket (131) which is pivotally mounted to attachment member (5) via pivot bolt (130). Bracket 131 is not part of the exhaust housing of Davies nor does it allow passage of any content therethrough, exhaust gas or cooling water.

Blanchard, Clarence E.

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Claim 29 calls for "an exhaust housing pivotally mounted to said hull and supporting said engine." As discussed above, it is not the exhaust housing of Davies which is pivotally mounted to the hull, it is an arm which is attached to the exhaust housing at one end and attached to the hull at a second end. Additionally, if the exhaust housing of Davies were to be mounted to the hull of the watercraft, even pivotally, such a construction would disable the steering of the engine and thus, be inoperable. That is, the exhaust housing of Davies must be pivotable in relation to the upwardly extending bracket in order to effectuate steering of the watercraft. If the upperwardly extending bracket were to be removed and the exhaust housing pivotally secured to the attachment member via a pivot bolt, the exhaust housing would no longer be pivotable about an axis of driving shaft (3) and as such, would not steer. Therefore, the exhaust housing of Davies is clearly not pivotally mounted to the hull.

The Examiner further states that "the claim does not recite anything more than the broad limitation 'pivotally mounted'" and further states "that the broad limitation does not exclude or negate the existence of intermediate members." Applicant respectfully disagrees. Applicant does not disagree that the exhaust passage (41) of Davies is connected to the hull however such is not the same as mounted to. As defined at definition (5a) in Webster's II, New Riverside University Dictionary, mount is defined as "to secure firmly to a support." (A copy of which is included herein.) As such, one element that is mounted to another element infers the lack of intermediate members. For example, a tire may be connected, or joined, to a seat belt as common elements of a car; however, the tire is not mounted to the seat belt in as much as the tire is mounted to the wheel. In much the same way, in Davies, it is bracket (131) that is mounted to the hull and not the exhaust housing.

In the Response filed June 6, 2003, applicant further argued that:

Assuming arguendo that the attachment member 5 of Davies is a thrust plate, a person of ordinary skill in the art would readily recognize that horns (136) while, in part, are adjacent exhaust passage 41, do not receive, or support the weight or pressure of, the exhaust housing therein. That is, a person of ordinary skill in the art would readily recognize that the horns are used to facilitate tilt of the outboard motor of Davies and are not walls of a thrust plate.

The Examiner states that "it is noted that the features upon which applicant relies (i.e., "support the weight or pressure of") are not recited in the rejected claims." The Examiner continues that "Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims." Applicant agrees that the limitations from the specification should not be read into the claims; however, "the words of the claims must be given

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S/N: 09/927,719

their plain meaning". MPEP §2111.01. As defined at definition six (6) in Webster's II, New Riverside University Dictionary, 'receive' is defined as "to bear the weight or force of: SUPPORT." (A copy of which is included herein.) As such, applicant has not limited the scope of the claim with that which is disclosed in the specification but has merely provided the ordinary and common meaning of 'receive'. Therefore, as previously stated, a person of ordinary skill in the art would readily recognize that the horns are used to facilitate tilt of the outboard motor of Davies and are not walls of a thrust plate.

The Examiner further states that the horns (131) of Davies prevent lateral rotation of the exhaust housing by providing a mechanical stop to each side of the housing. Such is not the case. Applicant does not necessary disagree that the horns hinder lateral displacement of the exhaust housing positioned therebetween; however, the exhaust housing of Davies must be allowed to rotate between the horns in order to steer the watercraft. "The sleeve 132 is made in two similar semi-cylindrical halves bolted together about the driving-shaft housing and the latter is freely rotatable about its own axis ..." Col. 10, lns. 13-16. That is, the exhaust housing must be rotatable between the horns in order to steer the watercraft. As such, the horns of Davies do not prevent lateral rotation of the exhaust housing as called for in claim 29. The reference cannot be modified to reject the claims in a way that makes it inoperable. Minimally, for the reasons set forth above, applicant believes that which is called for in claim 29 is patentably distinct over the art of record.

The Examiner rejected claim 43 under 35 U.S.C. §103(a) as being unpatentable over Davies in view of Hall stating that the walls engage a pair of respective recesses of the outboard water jet propulsion system. Applicant respectfully disagrees.

Claim 43 calls for, in part, a thrust plate having a pair of side walls that are constructed to engage a pair of respective recesses of the outboard water jet propulsion system. In rejecting claim 43, the Examiner states that:

The walls (136) comprise locking screws (137). The outboard water jet propulsion system comprises bridge piece (138). Bridge piece (138) has respective recesses that receive screws (137). In this way the walls engage a pair of respective recesses of the outboard water jet propulsion system.

Such a conclusion is not supported by the reference.

Davies states that "by the provision of locking screws 137 operating in the arcuate slots 136' in the horns 136, the actual angular setting or operative position of the outboard motor unit with respect to the transom of the dingy can be adjusted between a strictly vertical position and a somewhat oblique position." Col. 11, lns. 36. That is, locking screws 137 are disclosed as

Blanchard, Clarence E.

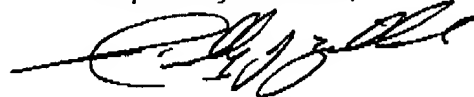
S/N: 09/927,719

independent components which are independently positionable within the slots of the horns to accommodate trim adjustment of the outboard motor. It is equally apparent that it is the screws and not the horns that engage the recesses of the bridge piece. For example, in keeping with the subject matter of the previous example, while a car may comprise a wheel and an axle, a person of ordinary skill in the art would not interpret the wheel to comprise the axle. Applicant would not disagree that screws 137 pass through horns 136 and engage a threaded recess formed in bridge piece 138. Even so, it is the screws and not the horns that engage the recesses formed in the bridge piece. As such, claim 43, which calls for, in part, thrust walls constructed to engage recesses of the outboard water jet propulsion system is patentably distinct over Davies in view of Hall.

Therefore, in light of the foregoing, Applicant respectfully believes that the present application is in condition for allowance. As a result, Applicant respectfully requests timely issuance of a Notice of Allowance for claims 29-48.

An Appointment of Associate Power of Attorney and Change of Correspondence address are also included herein so that future correspondence and communication regarding this matter are directed to the undersigned. Applicant appreciates the Examiner's consideration of these Amendments and Remarks and cordially invites the Examiner to call the undersigned, should the Examiner consider any matters unresolved.

Respectfully submitted,



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